

## Senate Bill 95

By: Senators Harp of the 29th, Kemp of the 46th, Stephens of the 27th, Hudgens of the 47th and Seabaugh of the 28th

**AS PASSED**

**AN ACT**

To amend Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated, relating to general provisions relative to the Department of Natural Resources, so as to provide that evaluations and reports of licensed soil scientists shall be accepted by the Department of Natural Resources for certain purposes; to define certain terms; to amend Code Section 31-3-5 of the Official Code of Georgia Annotated, relating to functions of county boards of health, so as to provide that evaluations and reports of licensed soil scientists shall be accepted by county boards of health for certain purposes; to provide for certifications of certain reports by licensed soil scientists and other persons qualified to conduct soil evaluations for on-site sewage management systems; to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to regulate the practice of soil science; to provide for a short title; to provide for legislative purpose; to define certain terms; to provide for inapplicability; to provide for the State Licensing Board for Professional Soil Scientists; to provide for board powers and duties; to provide for certain records; to provide for filing and service of documents; to provide for applications; to provide for eligibility; to provide for licensing; to provide for refusal and discipline; to provide for seals; to provide for a code of professional conduct; to provide for charges of violations; to require utilization of licensees by government entities; to provide for a legal adviser; to provide for exemptions; to make certain acts unlawful; to provide punishment for violations; to provide for related matters; to provide a contingent effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated, relating to general provisions relative to the Department of Natural Resources, is amended by adding a new Code section to read as follows:

"12-2-10.

Any person who is a licensed soil scientist under Chapter 43B of Title 43 may submit evaluations and reports to the department when such are required by the department for purposes of satisfying requirements of this title; specifically erosion, sedimentation and pollution control, underground injection control, and large community subsurface systems. Such reports by a licensed soil scientist shall be accepted by the department for such purposes."

## **SECTION 2.**

Code Section 31-3-5 of the Official Code of Georgia Annotated, relating to functions of county boards of health, is amended by striking subsection (d) and inserting in lieu thereof the following:

"(d)(1) Any person may register with the department to conduct soil investigations and prepare soil reports of a site within the state for an on-site sewage management system if such person meets any one of the following criteria:

(A) Holds a valid certificate of registration as a professional engineer issued pursuant to Chapter 15 of Title 43 and is practicing within his or her area of engineering competency;

(B) Holds a valid certificate of registration as a registered geologist issued pursuant to Chapter 19 of Title 43 and is practicing within his or her area of geologic competency;  
or

(C) Is a soil and water conservation technician employed as such by a soil and water conservation district provided for in Article 2 of Chapter 6 of Title 2.

(2)(A) Upon the submission of an evaluation of the suitability of a site within the state for an on-site sewage management system by a person who is a licensed soil scientist under Chapter 43B of Title 43 or who is registered with the department under this subsection, the county board of health shall be required to accept the evaluation unless such evaluation is found by the county board of health to be deficient or questionable. If the county board of health finds such evaluation to be deficient or questionable, the board shall, within three working days of making such finding, issue a written determination stating all deficiencies and all measures needed to correct the deficiencies. A copy of this determination shall be provided to the state director of environmental health.

(B) An evaluation shall not be deemed deficient or questionable and shall be accepted by the county board of health if the following certification is printed on the report at least one inch apart from any other text and in type size and boldness equal to or greater than any other type size and boldness in the body of the report and signed by a licensed soil scientist or a person registered with the department under this subsection; provided, however, that such certification shall not be required except for purposes of the guaranteed acceptance provided by this subparagraph:

'By affixing my seal and signature, I, (name), certify that I have mapped the soils of the area covered by this report in accordance with National Cooperative Soil Survey Standards of the United States Department of Agriculture Natural Resources Conservation Service. This evaluation has met or exceeded the minimum field standards of the Georgia Department of Human Resources, Division of Public Health, Environmental Health Section. The soils map and its interpretation are my opinions based upon the results of my evaluation. The Environmental Health Section or county health department will make final determinations regarding use of these soils for on-site sewage management systems. I have delivered a copy of this report to the owner of the subject real property and, by this certification, I guarantee to such owner and his or her successors in interest for a period of three years from the date of this certification that an on-site sewage management system installed in accordance with the recommendations of this report will not malfunction due to soil conditions during such period; provided, however, that if the soils are altered after this report date or the soils are not used as recommended, I will not be responsible for malfunctions arising from such soils issues.

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Name

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Address''

**SECTION 3.**

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by inserting a new chapter to read as follows:

**"CHAPTER 43B****43-43B-1.**

This chapter shall be known and may be cited as the 'Soil Scientists Licensing Act of 2006.'

**43-43B-2.**

The purpose of this chapter is to protect life, property, health, and public welfare through regulation of the practice of soil science in the state; to define the practice of soil science as a profession by establishing minimum standards of ethical conduct and professional responsibility and by establishing professional education and experience requirements; and to prevent abuses in the practice of soil science by untrained or unprincipled individuals. This action recommends itself through benefits to the people of this state and promotion of the public welfare. These benefits are in the field of soil science as related to on-site disposal of domestic waste water (septic systems), land treatment of various waste waters, byproducts, and residual solids on land, bioremediation, erosion and sedimentation, soil productivity, protection of surface and ground water, identification of wetlands and unique natural resources, and other soil matters of concern to the people of the state.

**43-43B-3.**

As used in this chapter, the term:

- (1) 'Board' means the State Licensing Board for Professional Soil Scientists.
- (2) 'License' means a certificate issued by the board to an individual who satisfies the requirements established for a licensed soil scientist under this chapter and the rules and regulations adopted pursuant to this chapter.
- (3) 'Licensed soil scientist' means a person who is licensed as a soil scientist under this chapter.

(4) 'Public practice of soil science' means any service or work, the adequate performance of which requires education in the physical, chemical, and biological sciences, as well as soil science; training and experience in the application of special knowledge of these sciences to the use and management of soils by accepted principles and methods; investigation, evaluation, and consultation in the use and management of soils; and in which the performance is related to the public welfare by safeguarding life, health, property, and the environment. The term includes, but is not limited to, investigating and evaluating the interaction between water, soil, nutrients, plants, and other living organisms that are used to prepare soil scientists' reports for subsurface ground absorption systems, including infiltration galleries; land application of residuals such as sludge, septage, and other wastes; spray irrigation of waste water; soil remediation at conventional rates; land application of agricultural products and processing residues; bioremediation and volatilization; soil erodibility and sedimentation; and identification of hydric soil and redoximorphic features.

(5) 'Responsible charge of work' means the independent control and direction, by the use of initiative, skill, and independent judgment, of soil science work or the supervision of such work.

(6) 'Soil' means the unconsolidated mineral or organic matter on the surface of the earth that has been subjected to and influenced by genetic and environmental factors of parent material, climate (including water and temperature effects), microorganisms, and topography, all acting over time and producing a product that differs from the material from which it is derived in many physical, chemical, biological, and morphological properties and characteristics.

(7) 'Soil science' means the science dealing with soils as an environmental resource. Soil science includes soil characterization, classification, and mapping; the physical, chemical, hydrologic, mineralogical, biological, and microbiological analysis of soil; and the assessment, analysis, modeling, testing, evaluation, and use of soil for the benefit of mankind. Soil science does not include design or creative works, the adequate performance of which requires extensive geological, engineering, land surveying, forestry, or landscape architecture education, training, and experience or requires registration as a geologist under Chapter 19 of this title, professional engineer or land surveyor under Chapter 15 of this title, or forester under Part 2 of Article 1 of Chapter 6 of Title 12 or licensing as a landscape architect under Chapter 23 of this title.

(8) 'Soil scientist-in-training' means a person who has passed the examination and satisfied all other requirements for licensure under this chapter except for the professional work experience requirement.

(9) 'Subordinate' means any person who assists a licensed soil scientist in the practice of soil science without assuming the responsible charge of work.

43-43B-4.

This chapter does not apply to the following individuals:

(1) An officer or employee of:

- (A) The federal government;
- (B) The state government; or
- (C) Any local government

while such officer or employee is providing soil science services for the officer's or employee's employer;

(2) An individual engaged solely in soil science research or the instruction of soil science;

(3) An individual not engaged in the public practice of soil science;

(4) A professional engineer registered under Chapter 15 of this title who applies soil science to the practice of engineering;

(5) A professional geologist registered under Chapter 19 of this title who applies soil science to the practice of geology;

(6) A professional forester registered under Part 2 of Article 1 of Chapter 6 of Title 12 who applies soil science to the practice of forestry;

(7) A person who is a certified professional in erosion and sediment control (CPESC) or soil conservationist who uses soil science in making land use decisions for the conservation of soil and water resources;

(8) A professional wetlands specialist who applies soil science to make wetland delineations or determinations;

(9) A person who conducts soil sampling solely for the purpose of determining plant nutrient and lime application rates for gardening and agricultural purposes; or

(10) A soil and water conservation technician registered with the Department of Human Resources under subsection (d) of Code Section 31-3-5 when applying soil science for purposes of said subsection.

43-43B-5.

(a) The State Licensing Board for Professional Soil Scientists is created, whose duty it shall be to administer this chapter. The board shall be composed of:

(1) Five members who shall be eligible for licensure under this chapter and who on and after July 1 of the year following the effective date of this chapter shall be soil scientists licensed under this chapter, one of whom shall be an academic soil scientist, one a governmental soil scientist, one a salaried company soil scientist, one an independent or consultant soil scientist, and one a soil scientist at large;

(2) A sixth member who shall be appointed from the public at large and who shall have no connection whatsoever with the practice of professional soil science; and

(3) The commissioner of human resources, ex officio, or his or her designated agent.

(b) The members of the board provided for in paragraphs (1) and (2) of subsection (a) of this Code section shall be appointed by the Governor, subject to approval as to qualifications by the Secretary of State and confirmation by the Senate, for terms of five years and until their successors are appointed and qualified. On the expiration of the term of any member, the member's successor shall be appointed in the same manner as regular appointments.

(c) Each member of the board shall be a citizen of the United States and a resident of the State of Georgia.

(d) No person shall serve as a member of the board for more than two consecutive terms.

(e) The Governor may remove any member of the board pursuant to the authority of Code Section 43-1-17. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor as provided for in this chapter.

(f) The members of the board shall, before entering upon the discharge of their duty, subscribe to and file with the office of the Governor the required oath of office, whereupon the Governor shall issue to each appointee a certificate of appointment.

(g) Each member of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

43-43B-6.

(a) In addition to other powers and duties specified in this chapter, the board shall:

- (1) Promulgate, adopt, amend, and repeal all rules and regulations necessary for its government and for carrying this chapter into effect for the regulation of proceedings before the board. The board and all of its rules, regulations, and procedures are subject to and shall comply with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
- (2) Adopt and have an official seal;
- (3) Elect from its membership a chairperson, a vice chairperson, and any other officers deemed necessary who shall hold office for a term of one year;
- (4) Issue, renew, refuse to renew, deny, suspend, revoke, and reinstate licenses or otherwise discipline licensees under this chapter;
- (5) Initiate investigations for the purpose of discovering violations of this chapter;
- (6) Hold hearings on all matters properly brought before the board and, in conjunction therewith, to administer oaths, receive evidence, make necessary findings, and enter orders consistent with the findings. The board may designate one or more of its members as its hearing officer;
- (7) Adopt a code of professional conduct;
- (8) Establish and receive fees as required by this chapter;
- (9) Examine and determine the qualifications and fitness of applicants for licenses to practice soil science in this state;
- (10) Bring proceedings in the courts for the enforcement of this chapter or any rules or regulations promulgated pursuant to this chapter;
- (11) Establish reasonable standards for continuing professional education for soil scientists; provided, however, that no examination shall be required for a renewal of a license; and
- (12) Have such other powers and duties as are necessary to effectuate the purposes of this chapter.

(b) The board shall be assigned to the office of the Secretary of State for administrative purposes, shall operate under the jurisdiction of the division director, and shall operate in accordance with and pursuant to the provisions of Chapter 1 of this title, as applicable.



## 43-43B-7.

All appeals from a decision of the board, all documents or applications required by law to be filed with the board, and any notice or legal process to be served upon the board shall be filed with or served upon the division director at his or her office.

## 43-43B-8.

An application for licensing as a soil scientist shall be made under oath and shall show the applicant's education and a detailed summary of the applicant's professional work experience as a soil scientist. The application shall be accompanied by an application fee fixed by the board.

## 43-43B-9.

(a) To be eligible for a license as a soil scientist in this state, an applicant shall meet each of the following minimum qualifications:

- (1) Be of good ethical character;
- (2) Hold at least a bachelor's degree in science from an accredited college or university with a major in soil science or a related field of science. Such degree shall include a minimum of 30 semester hours or equivalent quarter credit hours in agricultural, biological, chemical, physical, or earth sciences, with a minimum of 15 semester credit hours or equivalent quarter credit hours in soil science courses;
- (3) Have at least four years of professional work experience as a soil scientist under the supervision of a licensed soil scientist or a soil scientist who is eligible for licensure under this chapter. An applicant may substitute an advanced degree in soil science for a portion of the professional work experience requirement. The board, in its discretion, may allow an applicant to substitute a master's degree in soil science for one year of professional work experience and to substitute a doctoral degree in soil science for two years of professional work experience. The board, in its discretion, may allow an applicant to substitute experience gained through teaching upper-level soil science courses at the college or university level or research in soil science for all or any portion of the professional work experience requirement if the board finds the teaching or research to be equivalent to the responsible charge of work by a soil scientist; and
- (4) Successfully pass such examinations as are established by the board and which are designed to demonstrate that the applicant has the necessary knowledge and skill to exercise the responsibilities of the public practice of soil science.

(b) The board shall designate an applicant who meets all the requirements for a license under this chapter except the professional work experience requirement as a soil scientist-in-training. A soil scientist-in-training may apply for a license upon completion of the professional work experience requirement.

(c)(1) The board shall waive examination requirements for licensing for an individual who, on the effective date of this chapter, is certified as a soil scientist or soil classifier by:

(A) The American Registry of Certified Professionals in Agronomy, Crops, and Soils (ARCP ACS); or

(B) The Department of Human Resources.

(2) Examinations shall be held at least annually.

(3) The board shall determine the fee for and the scope, form, and content of the examinations provided for under this chapter.

(d) A person holding a license to engage in the practice of soil science on the basis of comparable licensing requirements issued to him or her by a proper authority of another state, territory, or possession of the United States or the District of Columbia and who, in the opinion of the board, otherwise meets the requirements of this chapter based on verified evidence may be licensed upon application without further examination.

43-43B-10.

(a) The board shall issue a license, upon payment of the license fee set by the board, to any applicant who, in the opinion of the board, has satisfactorily met the requirements of this chapter.

(b) All licenses shall be renewable biennially at such time as may be designated by the board. All applications for renewal shall be filed with the board prior to the expiration date, accompanied by the renewal fee prescribed by the board. A license which has expired for failure to renew may only be reinstated after application and payment of the prescribed reinstatement fee within six months of the expiration date, provided that the applicant meets such requirements as the board may establish by rule.

(c) A new license to replace any license that is lost, destroyed, or mutilated may be issued subject to the rules of the board and payment of a fee set by the board.

## 43-43B-11.

(a) The board shall have the authority to refuse to grant a license to an applicant therefor or to revoke or suspend the license of a person licensed by the board or to otherwise discipline a person licensed by the board the same as provided in Code Section 43-1-19 for professional licensing boards.

(b) The action by the board in granting or refusing to grant or renew a license under this chapter or in revoking or suspending or in refusing to revoke or suspend such a license may be appealed in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' to the superior court of the county of domicile of the board; provided, however, that if the findings of the board are supported by any evidence, such findings shall be accepted by the court.

## 43-43B-12.

Each licensee under this chapter may use a seal of such design as is authorized by the board, bearing the licensee's name and the legend 'Licensed Professional Soil Scientist.' All drawings, reports, or other papers or documents involving the practice of soil science, as defined in this chapter, which shall have been prepared or approved by a licensed soil scientist or a subordinate employee under his or her direction for the use of or for delivery to any person or for public record within this state shall be signed by him or her and impressed with the seal provided for in this Code section or the seal of a nonresident practicing under this chapter, either of which shall indicate his or her responsibility for them.

## 43-43B-13.

The board shall keep a record and shall publish annually a roster showing the names, places of business, and residence addresses of all soil scientists licensed under this chapter. Copies of such roster shall be made available to the public upon request and payment of a reasonable fee, established by the board, for copying.

## 43-43B-14.

The board shall prepare and adopt by rule a code of professional conduct that shall be made known in writing to every licensee and applicant for licensing under this chapter and shall be published by the board. Publication of the code of professional conduct shall be due notice to all licensees of its contents. The board may revise and amend such code of

professional conduct. Prior to adoption of any revision or amendments, all licensed members and the public shall receive due notice and an opportunity to be heard.

43-43B-15.

Any person may file written charges of violations of this chapter or any rules adopted pursuant to this chapter with the board against any licensee. Any charges or allegations shall be in writing, shall be sworn to by the person making them, and shall be filed with the board. The board shall investigate reasonably all valid complaints.

43-43B-16.

On and after January 1 of the year following the effective date of this chapter, this state and its political subdivisions, such as a county, a municipality, or a legally constituted board, district, commission, or authority, shall contract for soil science services only with persons licensed under this chapter, a firm employing a licensed soil scientist, persons registered as professional engineers practicing in their area of engineering competency, or persons registered as professional geologists practicing in their area of geologic competency.

43-43B-17.

(a) This chapter shall not prohibit one or more soil scientists from practicing through the medium of a sole proprietorship, partnership, limited liability company, or corporation. In a partnership, limited liability company, or corporation whose primary activity consists of soil science services, at least one partner, member, or officer shall be a licensed soil scientist.

(b) This chapter shall not prevent or prohibit an individual, firm, company, association, or corporation whose principal business is other than the public practice of soil science from employing a unlicensed soil scientist to perform nonpublic soil science services necessary to the conduct of its business.

(c) This chapter shall not be construed to prevent or to affect:

(1) The practice of any profession or trade for which a license is required under any other provision of this Code;

(2) The practice of registered professional engineers from lawfully practicing soils mechanics, foundation engineering, and other professional engineering as provided in this title; or

(3) The practice of a person who is not a resident of and has no established place of business in this state or who has recently become a resident hereof practicing or offering to practice the profession of soil science herein for more than 30 days in any calendar year if the person shall have filed with the board an application for a license and shall have paid the fee required by this chapter. Such practice shall continue only for such time as the board requires for the consideration of the applicant for licensing.

43-43B-18.

(a) Except for persons registered as professional engineers or professional geologists who are practicing soil science within their areas of engineering or geologic competency, it:

(1) Shall be unlawful for any person other than a licensed soil scientist or a subordinate under the soil scientist's direction and not otherwise exempt under this chapter to conduct or participate in any practice of soil science or prepare any soil science reports, maps, or documents related to the public welfare or the safeguarding of life, health, property, or the environment;

(2) Shall be unlawful for any person, including a soil scientist-in-training or a subordinate, to practice, or offer to practice, soil science in this state or to use in connection with his or her name, otherwise assume, or advertise any title or description tending to convey the impression that he or she is a licensed soil scientist unless that person has been duly licensed or is exempted under the provisions of this chapter; and

(3) Shall be unlawful for anyone other than a licensed soil scientist to stamp or seal any soils related plans, maps, reports, or other soils related documents with the seal or stamp of a licensed soil scientist or use in any manner the title 'soil scientist' unless that person is licensed under this chapter.

(b) It shall be unlawful for any person to affix his or her signature to, stamp, or seal any soils related plans, maps, reports, or other soils related documents after the license of the person has expired or been suspended or revoked.

(c) It shall be unlawful for a licensed soil scientist to prepare plats and maps so as to engage in the practice of land surveying as defined in Code Section 43-15-2 unless the licensed soil scientist is also a registered land surveyor under Chapter 15 of this title.

(d) It shall be unlawful for a licensed soil scientist to engage in the design of engineering works and systems unless the licensed soil scientist is also a registered professional engineer under Chapter 15 of this title.

- (e) It shall be unlawful for a licensed soil scientist to engage in the practice of geology unless the licensed soil scientist is also a registered geologist under Chapter 19 of this title.
- (f) Paragraphs (1) and (2) of subsection (a) of this Code section shall apply only to acts committed on or after January 1 of the year following the effective date of this chapter.

43-43B-19.

(a) A person who:

- (1) Willfully practices soil science or offers to practice soil science for any other person in this state without being licensed and who is not otherwise exempt in accordance with the provisions of this chapter;
- (2) Presents or attempts to use as his or her own the license or the seal of any other soil scientist;
- (3) Gives any false or forged evidence in the course of applying for a license under this chapter;
- (4) Impersonates a licensed soil scientist;
- (5) Practices or attempts to practice at any time while his or her license is suspended or revoked; or
- (6) Commits any other act made unlawful by this chapter

shall be guilty of a misdemeanor.

(b) Paragraph (1) of subsection (a) of this Code section shall apply only to acts committed on or after January 1 of the year following the effective date of this chapter."

#### **SECTION 4.**

This Act shall become effective only upon the effective date of a specific appropriation of funds for the purposes of this Act as expressed in a line item making specific reference to the full funding of this Act in an appropriations Act enacted by the General Assembly.

#### **SECTION 5.**

All laws and parts of laws in conflict with this Act are repealed.